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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/762,643

01/20/2004

Scott Petersen

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EXAMINER

SEVERSON, RYAN J

ART UNIT

PAPER NUMBER

3731

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/762,643	<b>Applicant(s)</b> PETERSEN, SCOTT	
	<b>Examiner</b> Ryan Severson	<b>Art Unit</b> 3731	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-9 and 16-26 is/are pending in the application.
- 4a) Of the above claim(s) 3, 7, 18, 22, 23 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 8, 9, 16, 17, 19-21, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06 February 2008 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravenscroft et al. (6,007,558) in view of Whitcher et al. (6,273,901).** Ravenscroft reference discloses the filter (10) substantially as claimed, including: an apical head (12) and filter legs, with each filter leg including a joined end section (at 12) and a free end section (opposite 12). Each filter leg also includes a support member (32) coupled to an anchoring member (28) to secure the filter to the inner wall of the vessel. The filter also contains a plurality of filter tubes (26) with an inner lumen that receives the support members (see Figures 4-6). The filter tubes are joined at one end by a hub (see Figure 8, Ref. Numeral 38).

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4. However, Ravenscroft reference does not disclose the filter further comprising a landing pad secured to the free end of each filter tube. Attention is drawn to Whitcher reference, which teaches a landing pad (see Figure 8, Ref. Numeral 42A) may be used at the free end of a filter to spread the force applied at the tips of the filter over a greater area, thereby reducing the pressure on the contact or grasping points. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the landing pads of Whitcher reference to the filter tubes of Ravenscroft reference to allow the hook (28) of the support member to pass through to spread the force applied at the tips of the filter over a greater area, thereby reducing the pressure on the contact or grasping points. Further, one of ordinary skill in the art would have recognized the need to secure the pads to the tubes and not the legs to still allow the Ravenscroft reference to function as intended (i.e. allowing the legs to be retracted and moveable to and through the filter tubes). If this were not the case, when the legs of Ravenscroft are retracted into the tubes, the pads would simply be loose in the vessel, and one of ordinary skill in the art would have recognized the need to avoid this situation.

5. Regarding claim 5, the anchoring member is interpreted to include a bending region, as the anchoring members are capable of moving from a substantially straight position inside of filter tube (26) to a bent position to grasp the vessel wall (see Column 6, Lines 16-21).

6. Regarding claim 6, the hub (38) of Ravenscroft is an annular ring (see Figure 8).

**7. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravenscroft et al. (6,007,558) in view of Whitcher et al. (6,273,901) as applied to claim 1 above, and further in view of Ostrovsky et al. (6,447,530).** The

combination of Ravenscroft and Whitcher references does not disclose a retrieval means for retrieving the filter. Attention is drawn to Ostrovsky reference, which teaches the expandable filter may be retrieved using a retrieval device (see figures 11-14) to allow the filter to be removed and/or repositioned if desired. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a retrieval device, as taught by Ostrovsky reference, with the filter of the combination of Ravenscroft and Whitcher references, to allow the filter to be removed and/or repositioned if desired.

**8. Claims 16, 17, 20, 21, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravenscroft et al. (6,007,558) in view of Ostrovsky et al.**

**(6,447,530).** Ravenscroft reference discloses the filter (10) substantially as claimed, including: an apical head (12) and filter legs, with each filter leg including a joined end section (at 12) and a free end section (opposite 12). Each filter leg also includes a support member (32) coupled to an anchoring member (28) to secure the filter to the inner wall of the vessel. The filter also contains a plurality of filter tubes (26) with an inner lumen that receives the support members (see Figures 4-6). The filter tubes are joined at one end by a hub (see Figure 8, Ref. Numeral 38). However, Ravenscroft reference does not disclose a retrieval apparatus. Attention is drawn to Ostrovsky reference, which teaches the expandable filter may be retrieved using a retrieval device

(see figures 11-14) to allow the filter to be removed and/or repositioned if desired.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a retrieval device, as taught by Ostrovsky reference, with the filter of Ravenscroft reference, to allow the filter to be removed and/or repositioned if desired.

9. Further regarding claim 16, the retrieval apparatus of Ostrovsky has an inner member (96), a middle tubular member (98), and an outer sheath (102).

10. Regarding claim 25, the retrieval apparatus of Ostrovsky is capable of retrieving the filter using a jugular approach.

11. **Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ravenscroft et al. (6,007,558) in view of Ostrovsky et al. (6,447,530) as applied to claim 16 above, and further in view of Whitcher et al. (6,273,901).** The combination of Ravenscroft and Ostrovsky references does not disclose the filter further comprising a landing pad coupled to the free end of each filter tube. Attention is drawn to Whitcher reference, which teaches a landing pad (see Figure 8, Ref. Numeral 42A) may be used at the free end of a filter to spread the force applied at the tips of the filter over a greater area, thereby reducing the pressure on the contact or grasping points. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the landing pads of Whitcher reference to the filter tubes of Ravenscroft reference to allow the hook (28) of the support member to pass through to spread the force applied at the tips of the filter over a greater area, thereby reducing the pressure on the contact or grasping points.

12. **Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ravenscroft et al. (6,007,558) in view of Ostrovsky et al. (6,447,530) as applied to claim 16 above, and further in view of Hebert et al. (6,482,221).** The combination of Ravenscroft and Ostrovsky references does not disclose the inner member of the retrieval device of Ostrovsky reference comprises a braided tubular member. Attention is drawn to Hebert reference, which teaches a tubular member is made of a braided material (see Column 8, Lines 55-56) to provide varying flexibility to assist in navigation of tortuous lumens during implantation or removal of the device. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the inner member of the retrieval device of Ostrovsky reference with a braided material, as taught by Hebert reference, to provide varying flexibility to assist in navigation of tortuous lumens during implantation or removal of the device.

### ***Response to Arguments***

13. Applicant's arguments filed 06 February 2008 regarding the combination of Ravenscroft and Witcher have been fully considered but they are not persuasive for the reasons set forth at paragraph six (6) above.

14. Applicant's arguments with respect to claim 16 (regarding the retrieval apparatus) have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Severson whose telephone number is (571)272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. S./  
Examiner, Art Unit 3731

/Todd E Manahan/  
Supervisory Patent Examiner, Art Unit 3731